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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Democratic Republic of the Congo , submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

Letter dated 27 December 2001 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith an initial report from the Democratic Republic of the Congo to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government remains entirely at the Committee's disposal, being willing to providing it with other reports or supplementary information as needed, or at the Committee's request.

I should be grateful if you would arrange for this letter and its enclosure to be circulated as an official document of the Security Council.

(*Signed*) Atoki **Ileka**
Ambassador

Enclosure

Initial report submitted by the Democratic Republic of the Congo to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001) of 28 September 2001

The Democratic Republic of the Congo is fully determined to cooperate with the United Nations and its Member States — in particular with the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) — in efforts to combat international terrorism. The Democratic Republic of the Congo fully supports the efforts employed at the international level to implement Security Council resolution 1373 and all other legal instruments for combating international terrorism.

This initial report provides a summary of existing measures, including measures already implemented and numerous other initiatives that the Democratic Republic of the Congo plans to undertake with a view to ensuring proper implementation of Security Council resolution 1373 (2001). It also demonstrates that the foreign occupation of half of the territory of the Democratic Republic of the Congo by Rwanda, Uganda and Burundi in and of itself constitutes a major obstacle to the implementation of Security Council resolution 1373 (2001) by the Democratic Republic of the Congo.

This initial report points, inter alia, to the risk that the part of the Democratic Republic of the Congo under foreign occupation might become a haven for terrorism, money-laundering and drug-trafficking.

I. Obligations under Security Council resolution 1373 (2001)

1. Prevention and suppression of the financing of terrorist acts.

2. Adaptation of the national legal framework with a view to effectively combating terrorism:

(a) At the penal level (*Nullum crimen, nulla poena sine lege*);

(b) Adaptation of criminalization in the economic and financial fields in accordance with efforts to combat terrorism.

3. Close cooperation concerning terrorism-related information and exchange of intelligence.

4. Adaptation of asylum procedures taking into account the current state of affairs in the field of terrorism.

5. Combating impunity for crimes of terrorism.

6. Institution of effective checks at the borders.

7. Institution of relevant checks to combat counterfeiting, the falsification or fraudulent use of identity papers and of travel documents.

8. Adaptation of procedures and practice concerning the granting of refugee status and extradition, in accordance with the new state of affairs in the field of terrorism.

9. Involvement in efforts to coordinate international action to combat transnational organized crime.

II. Context in which the Democratic Republic of the Congo will be implementing the provisions of Security Council resolution 1373 (2001)

A. Political will of the Government and solidarity with the United States of America

The Congolese people and Government, with their love of peace and justice, humanity and progress, will always speak out against terrorist acts, whatever their origin or nature, since such acts violate the sanctity of life and wreak malicious destruction on man's efforts to achieve a better living environment.

Accordingly, in the first few hours following the indiscriminate act which plunged America and all humanity into mourning on 11 September 2001, His Excellency Major General Joseph Kabila, President of the Republic, expressed the sympathy and friendly solidarity of the Congolese people to the people of the United States of America, demanding that the perpetrators of such a horrible crime should be routed out, brought to justice and punished as a warning to others.

The President of the Republic has reiterated that commitment on several occasions, including:

- Before the United Nations General Assembly during the debate on terrorism at its most recent session;
- During his visit to the United States of America, on the occasion of his dialogue with President George W. Bush;
- Through the promulgation of Legislative Decree No. 070/2001 of 26 December 2001 on the establishment of a National Committee for Coordinating Efforts to Counter International Terrorism.

On 11 December 2001, on the occasion of the commemoration of the attacks of 11 September 2001 against the United States of America, the Government of the Democratic Republic of the Congo made a statement in which it stressed that the Congolese people once again shared the sorrow of the people and Government of the United States as they remembered the vile, outrageous, indiscriminate and gratuitous acts that had been committed exactly three months earlier, acts which constituted a crime against humanity and which the Congolese people and Government unequivocally and vehemently condemned.

The Democratic Republic of the Congo is participating in the efforts of all humanity, notwithstanding its scarce resources and the various constraints it faces, including the war of aggression being waged against it.

B. War of aggression against the Democratic Republic of the Congo

Terrorism, like aggression, cannot be justified and must simply be combated. Such acts impact as much on the security and territorial integrity of States as on the full enjoyment of human rights and fundamental freedoms by citizens.

The Democratic Republic of the Congo has suffered from State terrorism at the hands of three of its neighbours, namely Burundi, Uganda and Rwanda — who occupy a vast area of its territory with impunity, massacring women, children and old people — and it is convinced that the manifold criminal acts being committed there will come to an end when it recovers the whole of its territory.

This state of affairs has persisted since 2 August 1998 when Rwanda, Uganda and Burundi, in violation of the Charter of the United Nations and every universal principle enshrined in international law, undertook to occupy Congolese territory on the pretext that they wished to guarantee the security of their respective countries.

The international conventions against terrorism currently in force have tended to focus on individual responsibility without addressing the problem of State responsibility, or insufficiently addressing the obligation of States to prevent terrorist acts and to refrain from facilitating them.

However, all recent reports of the United Nations and independent organizations testify to the fact that these countries are engaging in massive violations of human rights and, in addition, a premeditated genocide of the Congolese people —it is estimated that three million Congolese have been killed to date, and thousands displaced.

Consequently, in its statement of 11 December 2001 on the occasion of the commemoration of the attacks of 11 September 2001 in the United States of America, the Government of the Democratic Republic of the Congo and the Congolese people reminded the international community that the massacres carried out on Congolese soil by Rwandan and Ugandan aggressors at Makobola, Katogota, in Masisi and elsewhere, the burying of living persons or amputation of limbs of resistance fighters in the occupied territories constitute terrorist acts in the fullest sense of the term. The Congolese Government and people demand that such acts be strongly condemned and that those who sponsor and who commit them should be tracked down and punished as criminals who must answer to all of humanity for their hideous crimes.

III. Objectives pursued

A. Strengthening of the territory's surveillance system

The strengthening of the territory's surveillance system involves:

- Controlling frontiers and "hot spots" for the purposes of counter-terrorism;
- Gathering data on existing or emerging terrorist networks, inter alia by establishing a national database of terrorist groups and infrastructures in the world, including details of their headquarters, members and type of acts, modus operandi, sources of funding, means of recruitment, countries

sponsoring them, and accepting responsibility for active or dormant groups in Africa.

B. Control of vulnerable groups and/or situations likely to give rise to terrorist activities in the Democratic Republic of the Congo

a. Refugees, persons displaced by war, deserters, persons frustrated as a result of various wars of liberation and aggression.

b. Families of victims of expulsion (1996), looting (1991 and 1993) and murder, in January 2001.

c. Street children and families, and mentally and physically handicapped persons.

d. Proliferation of non-governmental organizations, corporations and religious denominations.

e. Politico-religious movements with fundamentalist tendencies.

f. Widespread mafia-type wheeling and dealing in the context of the vast potential of the Democratic Republic of the Congo.

C. Economic counter-intelligence

a. Identification of front companies or firms that finance terrorism and of their ramifications abroad with a view to taking action.

b. Redirection of the production and sale of precious and strategic materials through the official circuit, which can be controlled.

c. Identification and monitoring of pro-terrorist fortunes.

d. Combating of serious economic crimes, including money-laundering, fraud, smuggling and counterfeiting of currency and other valuable printed materials.

e. Rehabilitation of the banking system with a view to monitoring fortunes and transfers of currency.

D. Combating crimes involving support for terrorism

a. Drug and arms trafficking.

b. Illicit trade in inputs for weapons and other sensitive chemical and pharmaceutical products (biological and bacteriological weapons).

c. Monitoring of enterprises in this sector.

d. Monitoring of nuclear power stations and factories involved in the handling of fissile materials.

E. General objectives

a. Restoration of the territorial integrity of the Democratic Republic of the Congo, so as to enable the Government to cooperate with the international community without hindrance.

b. Foreign policy based on support for democracy, respect for human rights and the culture of peace.

c. Policy of reducing inequalities and breeding grounds for frustration.

d. Support for the process of implementing the Rome Statute of the International Criminal Court, which the Democratic Republic of the Congo intends to ratify shortly.

e. Development of a new migration policy (under way).

f. Modernization of the system for the identification of persons.

g. Media campaign against terrorism and other related movements.

IV. Status of Congolese legislation and international commitments of the Democratic Republic of the Congo

The provisions of the Congolese Penal Code do not contain any explicit definition of terrorism. But the Democratic Republic of the Congo has always advocated a policy of preventing and punishing acts relating to this scourge, both at the national level and at the regional and international levels.

At the national level, in order to prevent the commission of acts relating to terrorist activities, Congolese law prohibits persons who have no military functions from being in possession of military-style weapons, including revolvers, pistols, submachine guns, rifles or any automatic weapons that fire in bursts (Decree of 21 February 1950 enacting the regulations on firearms and ammunition).

In order to discourage the formation of terrorist groups in the national territory, it is an offence under the Congolese Penal Code to form an association for the purpose of attacking persons or property (articles 156 and 160 of the Penal Code, Book II). The mere existence of the group constitutes the offence, regardless of whether the association so constituted has committed a specific offence or whether the members have agreed to commit a given crime. The offences set out in the aforementioned articles are prosecuted on a priority basis and tried within a maximum of one month.

At the regional level, the Democratic Republic of the Congo intends to become a party to the Organization of African Unity (OAU) Convention of 13 July 1999 on the Prevention and Combating of Terrorism, which it signed on 9 September 1999.

At the international level, the Democratic Republic of the Congo has already signed and/or ratified a good number of international conventions relating to the question of terrorism:

- The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;

- The Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
- The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;
- The International Convention against the Taking of Hostages, adopted by the General Assembly on 17 December 1979;
- The Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988;
- On 10 November 2001, during the campaign for the signature of the international treaties on combating terrorism, the Democratic Republic of the Congo signed the International Convention for the Suppression of the Financing of Terrorism.

V. Anti-terrorist initiatives already under way

A. At the juridical and legislative level

The President of the Republic has promulgated Decree No. 070/2001 of 26 December 2001 establishing a National Committee for Coordinating Efforts to Counter International Terrorism.

This Committee is chaired by the head of State and consists of the following Ministers and members of the presidential cabinet:

1. Minister for Foreign Affairs and International Cooperation;
2. Minister of National Security and Public Order;
3. Minister in the Office of the President of the Republic;
4. Minister of the Interior;
5. Minister of Justice;
6. Minister of State for Defence;
7. Special Adviser to the Head of State on Security;
8. Military Adviser to the Head of State;
9. Political and Diplomatic Adviser to the Head of State.

Under this decree a permanent secretariat was established, for which the Special Adviser to the Head of State on Security is responsible.

The aforementioned decree is annexed to this report.

Consultations are currently under way with a view to the ratification by the Democratic Republic of the Congo in the near future of all the other international conventions on combating terrorism to which it is not a party.

The Democratic Republic of the Congo plans to organize campaigns to promote awareness of these treaties prior to their entry into force in Congolese law and to amend its domestic legislation to bring it into line with the requirements of these treaties.

The Government is resolved to provide the country with legislation that will constitute the juridical basis for anti-terrorist measures. This legislation will therefore have to specify the modalities for the coordination of the activities of the public bodies responsible for combating terrorism and set out the rights and obligations of these bodies and of citizens.

Having signed the International Convention for the Suppression of the Financing of Terrorism, the Democratic Republic of the Congo intends to incorporate in its domestic legislation, immediately on ratification of this instrument, provisions relating to the freezing of the assets of terrorists under which the use of property owned by a person engaging in terrorist activities and the supply of goods, financial or related services to terrorists will be prohibited. To this end, Congolese judges will be empowered to order the blocking and seizure of property used for the purpose of terrorist activities.

The Congolese legislature plans to define terrorism and to criminalize it.

B. At the political level

a. Involvement in the international fight against terrorism.

b. Promotion of various forms of international cooperation through bilateral agreements, support for regional initiatives and, at the domestic level, the drafting of national laws and regulations.

C. At the diplomatic level

a. Participation by the Democratic Republic of the Congo in the various international meetings on terrorism and other types of organized crime held, inter alia, in Dakar and Maputo, within the framework of the Southern African Development Community (SADC).

b. Signature by the President of the Republic of the International Convention for the Suppression of the Financing of Terrorism.

D. At the technical level

a. Updating of a database to be made available to all with a view to effective cooperation in the fight against terrorism.

b. Participation of the Democratic Republic of the Congo in the search for the 11 September 2001 suspects, both bilaterally, with the United States of America, and multilaterally, through the International Criminal Police Organization (Interpol).

c. Reinvigoration of the anti-terrorism and Interpol sections in the intelligence community of the Democratic Republic of the Congo.

d. Strengthening of security measures at sites of American and allied interests.

e. Surveillance of firms suspected of supporting terrorism (diamond buying points, etc.).

f. Reactivation of controls on foreign visitors and population movements in the Democratic Republic of the Congo.

VI. Categorization of the Allied Democratic Forces (ADF) and the Rwandan Liberation Army (ALIR) as terrorist groups and implications thereof

Since 5 December 2001, the United States Government has updated the list of all organizations categorized as terrorist groups posing a threat to the security of the American nation.

In the light of the situation prevailing in the Democratic Republic of the Congo in particular, the Government takes note with great interest of the inclusion in this list of the Ugandan ADF movement and of the Rwandan ALIR.

Uganda and Rwanda claim, in the case of the former, that ADF has its bases in the mountains of Ruwenzori and, in respect of the latter, that thousands of ALIR insurgents have been incorporated in the Congolese Armed Forces. In reality, these are further pretexts intended to justify the perpetuation of the foreign occupation and the presence of Rwandan and Ugandan troops of aggression in Congolese territory.

The Congolese Government therefore wishes to communicate its position to the Security Council. This clarification is as follows:

1. The Democratic Republic of the Congo strongly reiterates its commitment to combating international terrorism;

2. The Democratic Republic of the Congo denounces the use of terror by any group as a means of making its demands, particularly from Congolese territory;

3. The Democratic Republic of the Congo is not collaborating in any way with any terrorist group;

4. The Democratic Republic of the Congo reaffirms its commitment to the peace process initiated in Lusaka.

VII. Conclusion

In the light of all the foregoing and taking into account the multifaceted difficulties faced by the Democratic Republic of the Congo, inter alia the fact that part of its territory is occupied by foreign armies, special assistance to strengthen institutional and human capacities to combat terrorism, is indispensable to attain the objectives set by the Government.

At the political and diplomatic levels, the Government is requesting from the international community greater involvement in and consistent support for the

Lusaka process, which is to lead to the orderly withdrawal of foreign troops from Congolese territory and the return of lasting peace, both for the Democratic Republic of the Congo and for the Great Lakes Region and the Central Africa region as a whole.

With regard to technical, legislative and financial cooperation, the Democratic Republic of the Congo is requesting the following bilateral and multilateral assistance:

- Sponsorship of disarmament, demobilization, repatriation and reintegration (DDRR) initiatives for all non-State armed groups, so as to create confidence and to resolve the issues relating to security requirements for both the Democratic Republic of the Congo and the aggressor countries;
- Partnership and sizeable financial aid for intelligence and for initiatives for the effective combating of terrorism in all its forms;
- Exchange of information in accordance with international and domestic law, and administrative and judicial cooperation with a view to preventing acts of terrorism;
- Increasing of the national operational capacity in counter-terrorism, including through the provision of sizeable amounts of material and equipment;
- Training of agents in various areas of counter-terrorism and organization of awareness-raising seminars.

New York, 27 December 2001

Pièce complémentaire

Décret No 070/2001 du 26 décembre 2001 portant création d'un Comité national de coordination de la lutte contre le terrorisme international (Cnclt)

Le Président de la République,

Vu, tel que modifié et complété à ce jour, le décret-loi constitutionnel No 003 du 27 mai 1997 relatif à l'organisation et à l'exercice du pouvoir en République démocratique du Congo, spécialement en son article 5;

Considérant la résolution 1373 (2001) adoptée par le Conseil de sécurité de l'Organisation des Nations Unies le 28 septembre 2001;

Considérant l'impérieuse nécessité de la mise en oeuvre efficiente en République démocratique du Congo des instruments juridiques internationaux et nationaux de lutte contre les actes de terrorisme;

Vu l'urgence;

Décrète :

Article premier

Il est constitué, en République démocratique du Congo, un comité national de coordination de la lutte contre le terrorisme international, en sigle « Cnclt ».

Article 2

Le Comité national de coordination de la lutte contre le terrorisme international a pour mission de :

1. Délibérer sur tous les problèmes liés au terrorisme international;

2. Coordonner la mise en oeuvre des conventions internationales relatives au terrorisme;

3. Arrêter, coordonner et mettre en oeuvre toutes les stratégies et mesures nationales nécessaires à la lutte contre le terrorisme international et à sa répression;

4. Collaborer étroitement avec les puissances étrangères et les organisations internationales pour prévenir et réprimer les actes de terrorisme, notamment par une coopération accrue et l'application intégrale des conventions internationales susvisées.

Article 3

Sont membres du Comité national de coordination de la lutte contre le terrorisme international :

1. Le Ministre des affaires étrangères et de la coopération internationale;

2. Le Ministre de la sécurité nationale et de l'ordre public;

3. Le Ministre à la présidence de la République;

4. Le Ministre de l'intérieur;

5. Le Ministre de la justice et garde des sceaux;

6. Le Ministre délégué à la défense;

7. Le Conseiller spécial du chef de l'État en matière de sécurité;

8. Le Conseiller militaire du chef de l'État;

9. Le Conseiller politique et diplomatique du chef de l'État.

Article 4

Le Comité national de coordination de la lutte contre le terrorisme international se réunit au moins une fois par mois sous la présidence du Président de la République ou de son délégué. Il peut se réunir en session extraordinaire lorsque des circonstances exceptionnelles l'exigent sur convocation du Président de la République ou de son délégué.

Le Secrétariat du Comité national est assuré par le Conseiller spécial du chef de l'État en matière de sécurité qui en est le Secrétaire permanent.

Un règlement intérieur, approuvé par le Président de la République détermine les règles de fonctionnement du Comité de coordination de la lutte contre le terrorisme international.

Article 5

Le Comité national de coordination de la lutte contre le terrorisme international est assisté d'un secrétariat technique composé d'experts de haut rang délégués par ministère ou service public ci-après :

1. Le ministère ayant la sécurité dans ses attributions;

2. Le Ministère de l'intérieur;

3. Les Forces armées congolaises;

4. L'Agence nationale de renseignements;

5. Le service ayant dans ses attributions la sécurité militaire intérieure;

6. Le service ayant dans ses attributions la sécurité militaire extérieure;

7. La sécurité présidentielle;

8. La Direction des renseignements généraux de la police nationale;

9. Le service chargé des migrations;

10. Le Cabinet du Conseiller spécial du chef de l'État en matière de sécurité.

Les ministères et services ou organismes ci-après peuvent déléguer, au besoin, des experts pour appuyer le Secrétariat technique du Comité national :

– Le Ministère des affaires étrangères et de la coopération internationale;

– Le Ministère de la justice et garde des sceaux;

– L'Interpol RDC;

– La Banque centrale du Congo;

– L'Office des douanes et accises;

– L'Office congolais de contrôle.

Article 6

Le Comité de coordination de la lutte contre le terrorisme international peut, le cas échéant, requérir tout expert ou inviter à ses réunions toute personne susceptible de l'assister dans l'accomplissement de sa mission.

Article 7

Les membres du Comité de coordination de la lutte contre le terrorisme international, les experts du Secrétariat technique ainsi que les experts requis ou les personnes invitées aux réunions du Comité national sont tenus de garder le secret sur les affaires portées à leur connaissance et sur les débats et les délibérations y afférents.

Article 8

Le Comité national de coordination de la lutte contre le terrorisme international dispose, pour son fonctionnement, d'une allocution budgétaire émergeant au budget de l'État ou, le cas échéant, provenant des aides extérieures.

Article 9

Le Ministre à la présidence de la République et le Conseiller spécial du chef de l'État en matière de sécurité sont chargés, chacun en ce qui le concerne, de l'exécution du présent décret qui entre en vigueur à la date de sa signature.

Fait à Lubumbashi, le 26 décembre 2001.

Le général-major
(*Signé*) Joseph **Kabila**